

**IN RE: MDL 2066 ORAL SODIUM PHOSPHATE
SOLUTION-BASED PRODUCTS LIABILITY ACTION**

MSA PARTICIPATION AGREEMENT

The law firm of Schroeter Goldmark & Bender ("the Law Firm") represents Claimants who are eligible to participate in the Master Settlement Agreement dated July 9, 2010 ("MSA"),¹ executed by C.B. Fleet Company, Inc. ("Fleet") and the Plaintiffs' Executive Committee ("PEC") (pursuant to authority vested by the MDL Court direction and MDL Court orders, including but not limited to the Order of the United States District Court for the Northern District of Ohio, Eastern Division, entitled "APPOINTMENT OF PLAINTIFFS' CO-LEAD COUNSEL" entered September 3, 2009, in MDL No. 2066 by the Honorable Ann Aldrich). The Law Firm hereby enters into this agreement ("Participation Agreement") and agrees as follows:

- (1) **Capacity:** The representative executing this Participation Agreement is doing so in his/her capacity as a partner, member, shareholder, or principal of the Law Firm and on behalf of such Law Firm; that the obligations undertaken hereunder will be legal, valid, binding, and enforceable against all present and future partners, members, shareholders, and other principals of the Law Firm, regardless of whether they remain partners, members, shareholders, or principals of such firm; and the representative has the capacity to execute this Participation Agreement and assume such obligations on behalf of such Law Firm.
- (2) **Participating Lawyer:** The Law Firm has reviewed the MSA and all exhibits in their entirety and understands that by executing this Participation Agreement, the Law Firm becomes a "Participating Lawyer" as defined in the MSA. By becoming a Participating Lawyer, the Law Firm agrees to be a Party to the MSA and bound by all of its terms and conditions.
- (3) **Recommendation to Claimants:** The Law Firm has provided a copy of the MSA, and all of its exhibits, including the Settlement Construct and Settlement Construct Protocol, to each Claimant represented by the Law Firm. The Law Firm represents and warrants that it has reviewed the provisions of this MSA with its clients, has concluded that it is in the best interests of its clients and any interests represented by them, and that this MSA represents a fair and efficient compromise of their clients' FPS claims. The Law Firm therefore represents and warrants that it has recommended to each of its clients that they become Participating Claimants under the terms of this MSA

¹ Unless otherwise defined in this Participation Agreement, the capitalized terms are defined in the MSA, which definitions are incorporated herein by reference.

- (4) **Authority From Claimants:** The Law Firm has obtained actual authority from each Claimant it represents to identify him/her in the attached lists (Exhibits 1 and 2) as either a Participating Claimant or Opt-Out Claimant as those terms are defined in the MSA.
- (5) **Participating Claimants:** The Law Firm hereby identifies, through submission of the attached accurate and complete list (Exhibit 1), the Claimants it represents who have agreed to become Participating Claimants and Parties to the MSA. The Law Firm understands and has explained to these identified Participating Claimants that resolution of their claims under the MSA is their sole and exclusive remedy and they may not under any circumstances withdraw their claims from the settlement process under this MSA.
- (6) **Opt-Out Claimants:** The Law Firm hereby identifies, through submission of the attached accurate and complete list (Exhibit 2), the Claimants it represents who have chosen to become Opt Out Claimants. The Law Firm acknowledges its obligations under Section 4.1 of the MSA with respect to those Claimants who have been identified as Opt Out Claimants.
- (7) **Service of Attached Lists:** On or before August 2, 2010, and in accordance with the Claim Processing Scheduling Order (as defined in Section 4.2.1 of the MSA), the Law Firm shall file this Participation Agreement, including complete and accurate lists (Exhibits 1 and 2), with the MDL Court and provide copies electronically to the following email addresses: Fleet@climacolaw.com, fleet@pepperlaw.com and fleet@hpmb.com.
- (8) **Confidentiality:** The Law Firm understands that it and the Claimants it represents are subject to the confidentiality provisions set forth in Section 4.13 of the MSA. The Law Firm and Claimants it represents will also abide by the orders of the MDL Court.
- (9) **Entire Agreement:** Except as set forth in this Participation Agreement, the MSA, and the exhibits to the MSA, Fleet has not made, and does not make, any other representations, warranties, promises or agreements to or with the Law Firm; and this Participation Agreement together with the MSA and its exhibits set forth the entire agreement between Fleet and the Law Firm. Except as otherwise provided herein or in the MSA, this Participation Agreement may not be rescinded, cancelled, terminated, supplemented, amended, or modified in any manner without the prior written consent of the Law Firm and the Parties to the MSA. This Participation Agreement is subject to Section 22.2 as it relates to governing law; except that each Participating Lawyer, on their own and their Participating Claimant's behalf, agrees to waive any right of appeal to the Sixth Circuit Court of Appeals.

Date: July 28, 2010

Signature Angela Macey-Cushman

Typed or Printed Name

Angela Macey-Cushman, WSBA #38320

Law Firm

Schroeter Goldmark & Bender

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Address

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Email

206-622-8000

Telephone No.

EXHIBIT 1-PARTICIPATING CLAIMANTS

Last Name	First Name	Address and Phone No.	Last 4 digits of SS#	Case Name and Case Number, if filed
Fehrenbach	Annette	311 S Dose Terrace Seattle, WA 98144	3385	Fehrenbach v. Murakami, et al.

EXHIBIT 2-OPT OUT CLAIMANTS ; " O "

Last Name	First Name	Address and Phone No.	Last 4 digits of SS#	Case Name and Case Number, if filed